

REMARKS

Initially, Applicant wishes to thank the Examiner and her supervisor for their kind assistance in reviewing the 112, 102, and 103 rejections prior to filing this response.

Claims 1 - 6, and 8 - 11 were pending in this RCE application. Claims 1 - 6, and 8 - 11 have been cancelled. New claims 12 - 21 have been added.

Support for the new claim may be found specifically in paragraphs **0050** through **0052** and in **FIGS. 16 - 19** of the specification. MPEP 608 permits the Applicant to rely on the drawings in providing a descriptive basis for the amendments.

Claim 12 is directed to a system having a pipe and pipe protector in combination. Claims 13 through 16 depend therefrom. Claim 17 is directed to a pipe protector and a means for accommodating a wide variety of sized ventilation pipes. Claims 18 - 21 depend therefrom.

Applicant submits that these claims are patentable over the prior art and requests allowance.

With respect to the previously cited prior art, first, Applicant submits that *Hernandez* (US 2003/0110554A1) does not show or suggest a conical neck adapted to rest along its transition on the top opening of the ventilation pipe resulting in a *low tolerance fit* for a variety of ventilation pipe sizes. Hernandez, rather, shows a tight fitting pipe engaging section 14 stopped by a tight fitting shoulder 16'. As such, the device of Hernandez would only fit only one size pipe and would also be difficult to install because of this exact fit. Hernandez was designed with this tight fitting shoulder to engage the pipe and to not allow the conical tubular base 12' to extend into the pipe, unlike the present invention where the conical neck rests along its transition, with at least a portion of the neck extending into the pipe.

Second, Applicant submits that Hernandez does not show or suggest a tubular sleeve adapted to be inserted within a ventilation pipe and disposed radially inwardly from the ventilation pipe leaving an appreciable *gap* bounded by the tubular sleeve, the conical neck, and the ventilation pipe, wherein the plurality of ventilation orifices also vent gas which may be trapped in said gap. Hernandez, rather, shows a pipe engaging section 14 and shoulder 16' with no gap and no orifices in pipe engaging section 14 even if there was a gap, thereby trapping gas if there was a gap.

Similarly, with respect to *Howson* (U.S. Patent No. 6,799,606), Howson does not show the tubular sleeve or conical neck having a plurality of ventilation orifices for venting of gas which may be trapped in the gap. Howson would not need such orifices since it is a drainage device and venting of gas is not addressed therein.

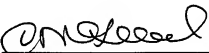
With respect to the remaining references, including *Levy* (U.S. 926,704) none of them show or suggest the combination of features of the present claim, nor would it be obvious to modify the references to meet the invention. In particular, the Examiner relied on the *Levy* reference as disclosing a plurality of passageways in the sleeve. The *Levy* reference shows a plurality of wires bent into various shapes to form a basket strainer as its upper portion and a cylindrical formed downward extending set of wires held together with a band. The wires that extend into the pipe are actually pressed outward against the inner surface of the pipe by the band and, thus, are not used for ventilation and could not be adapted for such use as the wires and band hold the device in place. Moreover, such wires are not sized small enough to prevent entry of animals and debris, but may merely act as a strainer as noted in the reference. Applicant therefore submits that these wires do not disclose nor teach a tubular sleeve with ventilation orifices (i.e., holes), nor would it be obvious (or even possible) to combine the wire contraption of *Levy* with the pipe protector of Hernandez or drainage device of *Howson* to meet the invention as claimed.

Applicant further submits that, even if *Levy* were applicable and combined with Hernandez and *Howson*, it would be necessary to make modifications, not taught in the prior

art, to adapt the "sleeve" of Levy to be capable of being inserted into the pipe without its band that holds the device in place against the pipe wall. Moreover, the fact that a large number of references (more than 3) would be required to meet the claims is evidence of unobviousness.

Finally, with respect to the 112 rejections, Applicant submits that claims 12 - 16 positively recite the pipe, thereby overcoming the 112 rejection. Applicant further submits that new claims 17 - 21 properly refer to the pipe as being "adapted to" and avoid reference to dimensions with respect to the pipe itself. However, if the above-proposed claims 17 - 21 are still defined in terms of a structure that is not defined as part of the claim, Applicant requests assistance from the Examiner to develop proper wording to overcome a potential 112 rejection.

Respectfully submitted,

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